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PETITION UNDER 28 USC § 2254 FOR WRIT OF
 HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District <u>4 Massachusetts First Cir</u>
Name <u>Juan Villan-Sanchez</u>	Prisoner No. <u>505105</u>	Case No. <u>-</u>
Place of Confinement <u>Plymouth County Correctional Facility</u> <u>56 Long Ford Road</u> <u>Plymouth, MA 01960</u>		
Name of Petitioner (include name under which convicted) <u>Juan Villan-Sanchez</u>		Name of Respondent (authorized person having custody of petitioner) <u>Dep't of Corrections</u> <u>Commissioner K. Healey</u>
The Attorney General of the State of: <u>Massachusetts</u>		

PETITION

- Name and location of court which entered the judgment of conviction under attack Case Superior Court
- Date of judgment of conviction April 4th, 2002
- Length of sentence 10-10 1 day - 1 count 2 5-5 1 Day consecutive
Total 10 years
- Nature of offense involved (all counts)
Possession of a Controlled Substance
Trafficking in a Controlled Substance
- What was your plea? (Check one)
 - Not guilty ☒
 - Guilty ☐
 - Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details:

No plea was entered
- If you pleaded not guilty, what kind of trial did you have? (Check one)
 - Jury ☐
 - Judge only ☒
- Did you testify at the trial?
 Yes ☐ No ☒
- Did you appeal from the judgment of conviction?
 Yes ☐ No ☒

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9. If you did appeal, answer the following:

(a) Name of court None

(b) Result _____

(c) Date of result and citation, if known _____

(d) Grounds raised _____

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

(1) Name of court None

(2) Result _____

(3) Date of result and citation, if known _____

(4) Grounds raised _____

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

(1) Name of court None

(2) Result _____

(3) Date of result and citation, if known _____

(4) Grounds raised _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☐

No ☒

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court None

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐

No ☒

(5) Result None

(6) Date of result _____

(b) As to any second petition, application or motion give the same information:

(1) Name of court None

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐

No ☒

(5) Result None

(6) Date of result _____

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc.

Yes ☐

No ☒

(2) Second petition, etc.

Yes ☐

No ☒

(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

Chancel never followed up on appeal. Rule 28 was debated but never brought forward. petitioners records were prepared but no action taken to date -

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting the same.

Caution: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (h) Denial of right of appeal.

A. Ground one: Conviction obtained as a joint venture tactic, against defendant

Supporting FACTS (state briefly without citing cases or law) The petitioner was charged in a joint matter between local and State Police with regard to a possible conspiracy violation. The petitioner is innocent as supported actual is a go-between in the case at hand, wherefore his conviction respectfully of 10 and 5 years is here excessive.

B. Ground two: Conviction obtained by use of said as perjured pursuant to an unconstitutional search, seizure, and identification

Supporting FACTS (state briefly without citing cases or law) The application for the warrant was baseless and was not substantiated by any physical evidence or credible informant. Whereas the entire case became a joint of a prisoner's own matter, as per United States vs. Olney, the matter became a one-way investigation. The basis for the application to violate small domains was vague and only set forth conclusions, facts in the matter at hand.

C. Ground three: Conviction obtained without proper defense, therefore supporting the ineffective assistance claim

Supporting FACTS (state briefly without citing cases or law) The petitioner has several motions filed during the case - that are still currently outstanding - the attorney just always stated to either sign papers as follows: his way. Defendant needed an interpreter, but went from that original counsel left mid-way - a plausible defense was never set forth as zealously argued. Counsel neglected the Exoneration of Ethics summary time.

D. Ground four: Conviction obtained in violation of proper identification procedure

Supporting FACTS (state briefly without citing cases or law) The officers seized a person not identified to be seized in arrest, tried to dupe the petitioner, by using illegally seized items to gain an positive identification while the petitioner was eating at a local restaurant. The officers ran them the place comparing faces to the illegally seized document then producing the defendant.

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them: None presented

Not Known

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

(a) At preliminary hearing

Arnold J. Loria Esquire

(b) At arraignment and plea

Lawrence J. McQuinn, Attorney at Law

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- (c) At trial Laurence J. McQuinn
- (d) At sentencing Laurence J. McQuinn
- (e) On appeal Laurence J. McQuinn
- (f) In any post-conviction proceeding None
- (g) On appeal from any adverse ruling in a post-conviction proceeding Laurence J. McQuinn
on July 28, 2004

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

None

(b) Give date and length of the above sentence: _____

None

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

[Signature]
 Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

8-6-04
 (date)

[Signature]
 Signature of Petitioner James Spence